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8 UNITED STATES BANKRUPTCY COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 In re CALIFORNIA PLAN, INC.,

Case No. 06-50442-CN  
Chapter 7

12 Debtor.  
13

14 ANDREA A. WIRUM, Trustee,

Adversary Proceeding  
No. 08-5071

15 Plaintiff.  
16

vs.

17 KINGHORN INVESTMENT GROUP, LLC,  
a Nevada limited liability company,  
18 KINGHORN INVESTMENT GROUP, LLC,  
a California limited liability company, DAVID  
19 P. BRUENIG, ALEXANDER K. TURNER,  
JR., and TIMOTHY K. FERRELL,  
20

Defendants.  
21

22 **NOTICE OF INTENDED ACTION**  
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24 TO: DEFENDANT ALEXANDER K. TURNER IN CARE OF HIS COUNSEL

25 **PLEASE TAKE NOTICE THAT**, in the main bankruptcy case, Plaintiff in her capacity  
26 as Trustee has served notice on creditors and other parties in interest of her intent to assign the  
27 judgment already entered in the above case along with any rights to enforce the judgment against  
28 judgment debtors or any other party that may be found liable for the judgment. The notice also

1 describes the Trustee's intent to request an order authorizing her to dismiss Alexander K. Turner  
2 from the above adversary proceeding without prejudice. A copy of the notice is attached.

3 If the relief sought by Plaintiff as Trustee is granted, the above adversary proceeding will  
4 be closed.

5  
6 DATED: July <sup>22</sup>\_\_\_\_, 2010

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

7  
8 By: \_\_\_\_\_

Charles P. Maher  
Counsel for Plaintiff Andrea A. Wirum

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

In re CALIFORNIA PLAN, INC.,

Debtor.

Case No. 06-50442 CN  
Chapter 7

**NOTICE OF DISPOSITION OF ASSET**

TO CREDITORS, THE UNITED STATES TRUSTEE, AND OTHER INTERESTED PARTIES:

**PLEASE TAKE NOTICE THAT** Andrea A. Wirum, Trustee in Bankruptcy of the estate of the above Debtor, intends to assign to creditor John Lucena or his designee all of the estate's right, title, and interest in a judgment obtained against two limited liability companies and the rights to pursue enforcement of that judgment against the managing member of the limited liability companies and possibly others. The consideration for the assignment will be 40 percent of any recovery after payment of attorneys fees and costs.

The Trustee obtained a default judgment against Kinghorn Investment Group, a Nevada limited liability company, and Kinghorn Investment Group, a California limited liability company for approximately \$410,000. The Trustee is informed and believes that both LLCs were controlled by Alexander Turner. The authority of Kinghorn-Nevada to conduct business has been revoked by the Nevada Secretary of State. Turner took certain steps necessary to dissolve Kinghorn-California when he was aware of the Trustee's claim against it.

The Bankruptcy Court declined to add Turner as a judgment Debtor to the default judgment but left open the question whether it would grant a motion for an order authorizing the Trustee to amend the complaint itself to add alter ego allegations against Mr. Turner who is also a defendant for recovery of transfers.

If there were other matters to address in this bankruptcy case that would require it to remain open, the Trustee would file a motion for an order authorizing her to amend the complaint and would pursue Turner herself. However, other than the anticipated distribution from the related case of Michael J. Schneider (Case No. 06-50441), there are no other issues remaining to be resolved in this case. Accordingly, the Trustee does not want to keep the case open for the purpose of pursuing Mr. Turner whose assets at this time are unknown.

Assignment of the judgment and related claims will permit the Trustee to close the case and she will reserve the anticipated recovery from abandonment under Section 554 of the Bankruptcy Code. If, after the case is closed, there is a recovery, the Trustee will ask the U.S. Trustee to file a motion with the Court reopening the case so that the recovery can be distributed to creditors in accordance with the Trustee's prior and final distribution.

In the exercise of her business judgment, the Trustee believes that the proposed transaction with Mr. Lucena or his designee is in the best interest of the estate and should be approved by the Court. If the Court approves the transaction, the Trustee will request entry of an order within the adversary proceeding still pending against Mr. Turner authorizing her to dismiss Mr. Turner from the adversary proceeding "without prejudice."

**PLEASE TAKE FURTHER NOTICE THAT** anyone who wishes to object to the proposed transaction with Mr. Lucena must do so in conformity with Rule 9014-1 of the Bankruptcy Local Rules for the Northern District of California. Rule 9014-1 requires an objecting party to file a written objection with the Clerk of the United States Bankruptcy Court, 280 South First Street, San Jose, California 95113, and to serve a copy on counsel for the Trustee at the address noted below **no later than 21 days** from the date of this notice. Rule 9014-1 also requires an objecting party to file and serve with its objection any legal memorandum and evidence (submitted by declaration) which it wants the Court to consider in support of its objection. If an objection is timely filed and served, counsel for the Trustee will obtain a hearing date and time and will provide the objecting party with at least seven days notice of the hearing. If no objection is timely filed and served, the Trustee will request entry of an order authorizing the transaction without an actual hearing.

**PLEASE TAKE FURTHER NOTICE THAT** as of January 1, 2005, electronic filing became mandatory in the United States Bankruptcy Court for the Northern District of California. Those persons who may wish to object but are not qualified to file documents electronically with the Bankruptcy Court should check the Bankruptcy Court's website ([www.canb.uscourts.gov](http://www.canb.uscourts.gov)) for guidance.

DATED: July 22, 2010

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

By: \_\_\_\_\_

Charles P. Maher

Counsel for Andrea A. Wirum, Trustee

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